

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVE NOBLE, CASE NO. CV-F-05-0321 OWW DLB P
Plaintiff, _____ ORDER DENYING PLAINTIFF'S
vs. MOTION FOR SANCTIONS
WOODFORD,
Defendant.

[Doc. 31]

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. On May 6, 2006, the Court ordered defendant to file a response to plaintiff's motion for preliminary injunction in which plaintiff sought relief from a prison regulation prohibiting him from visiting with his minor child. On May 31, 2006, defendant sought an extension of time in which to respond to the motion for preliminary injunction. Defendant represented that plaintiff was scheduled to be seen by a classification committee on June 13, 2006 for consideration of his visitation status. In support of the motion for extension of time, defendant submitted the April 11, 2006 classification committee hearing report that imposed the restriction on plaintiff and reflected the continued hearing date. On June 26, 2006, plaintiff filed a motion for sanctions against defendant and her counsel pursuant to Federal Rule of Civil Procedure 11, claiming that the April 11, 2006 classification chrono included false and derogatory information that was likely to be relied on by the

1 Court. Plaintiff also moved to strike the chrono from the court's file. Defendant filed an opposition to
2 the motion for sanctions on July 18, 2006.

3 Pursuant to the Federal Rules of Civil Procedure, Rule 11, "by presenting to the court a pleading
4 . . . a party is certifying that to the best of the person's knowledge, information, and belief, formed after
5 an inquiry reasonable under the circumstances . . . the claims, defenses, and other legal contentions
6 therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or
7 reversal of existing law or the establishment of new law." Fed. R. Civ. P. 11(b)(2). A court may, on its
8 own initiative, enter an order describing specific conduct that appears to violate subdivision (b) and
9 directing a party to show cause why it has not violated subdivision (b) with respect thereto. Fed. R. Civ.
10 P. 11(c)(1)(B). If, after notice and a reasonable opportunity to respond, the court determines that
11 subdivision (b) has been violated, the court may impose appropriate sanctions upon parties that have
12 violated subdivision (b). Fed. R. Civ. P. 11(b). Rule 11 authorizes the imposition of both monetary and
13 nonmonetary sanctions, including the striking of individual claims or defenses that are deemed frivolous.
14 Fed. R. Civ. P. 11(c)(2); Committee Notes on Amendments to Federal Rules of Civil Procedure (1993).

15 Defendant nor her counsel violated Rule 11 by filing the April 11, 2006 motion for extension of
16 time. The extension was sought because defendant thought the classification committee hearing may
17 eliminate the need for a preliminary injunction. The chrono was attached to the motion to show the
18 upcoming hearing date. Defendant did not rely on the substance of the chrono or in any way or represent
19 that the remaining contents of the chrono were accurate. To the extent defendant will use the chrono
20 in any dispositive motion in the future, plaintiff will have the opportunity to dispute its contents.

21 Plaintiff's motion for sanctions pursuant to Rule 11 and motion to strike the attachment to
22 defendant's motion is HEREBY DENIED.

23 IT IS SO ORDERED.

24 Dated: March 8, 2007
25 3c0hj8

/s/ Dennis L. Beck
26 UNITED STATES MAGISTRATE JUDGE
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